

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

LOYDALE KIRVEN,

Plaintiff,

v.

No. 19-cv-0324 JB/SMV

**CURRY COUNTY DETENTION CENTER
and CAPTAIN WARNELL,**

Defendants.

ORDER REGARDING ADDRESS AND FILING FEE

THIS MATTER is before the Court sua sponte in connection with Plaintiff Loydale Kirven's Prisoner Civil Rights Complaint [Doc. 1], filed on April 5, 2019. The Court (Hon. James Browning) recently reopened this case and determined Plaintiff may proceed *in forma pauperis*. [Doc. 10]. That ruling was returned as undeliverable with the notation: "RTS: Not Here." [Doc. 11]. It appears Plaintiff was released from custody without advising the Court of his new address, as required by D.N.M.LR-Civ. 83.6. Plaintiff must notify the Clerk of his new address **no later than May 28, 2021**. See *Bradenburg v. Beaman*, 632 F.2d 120, 122 (10th Cir. 1980) ("It is incumbent on litigants, even those proceeding pro se, to follow the federal rules of procedure. The same is true of simple, nonburdensome local rules . . .").

Pursuant to 28 U.S.C. § 1915(b), and because the Court granted Plaintiff leave to proceed *in forma pauperis* in this civil action filed from prison, Plaintiff must also make an initial partial payment towards the filing fee. The amount is equal to "20 percent of the greater of—(A) the average monthly deposits to the prisoner's account; or (B) the average monthly balance in the prisoner's account for the 6-month period immediately preceding the filing of the complaint."

§ 1915(b)(1). Plaintiff's most recent financial statement reflects the deposits exceed the balance and that he receives an average of \$20.50 per month. [Doc. 3] at 3. Accordingly, the Court will assess an initial partial payment of \$4.10. Plaintiff must pay that fee **no later than May 28, 2021**. If the inmate account statement contains outdated information, based on the procedural posture of this case, Plaintiff may also submit a new financial statement by the same deadline. The failure to timely comply with all directives in this Order (*i.e.*, provide an updated address and either pay the \$4.10 partial filing fee or, alternatively, submit a new financial statement) will result in dismissal of this case without further notice.

IT IS THEREFORE ORDERED that, **no later than May 28, 2021**, Plaintiff notify the Clerk's Office in writing of his new address.

IT IS FURTHER ORDERED that, **no later than May 28, 2021**, Plaintiff send to the Clerk an initial partial payment of **\$4.10**, or alternatively, file a new statement that reflects updated financial information.

IT IS SO ORDERED.



STEPHAN M. VIDMAR
United States Magistrate Judge